

**Tahoe Exemption Extension, 2000**

Proposed Rule Language

**Amend § 1038 Exemption.**

Persons who conduct the following types of timber operations are exempt from the plan preparation and submission requirements (PRC 4581) and from the completion report and stocking report requirements (PRC 4585 and 4587) of the Act:

(a) Harvesting Christmas trees.

(b) Harvesting dead, dying or diseased trees of any size, fuelwood or split products in amounts less than 10 percent of the average volume per acre when the following conditions are met:

(1) No tractor or heavy equipment operations on slopes greater than 50 percent.

(2) No construction of new tractor roads on slopes greater than 40 percent.

(3) Timber operations within any Special Treatment Area, as defined in 14 CCR 895.1, shall comply with the rules associated with that Special Treatment Area.

(4) No tractor or heavy equipment operations on known slides or unstable areas.

(5) No new road construction or reconstruction, as defined in 14 CCR 895.1.

(6) No heavy equipment operations within the standard width of a watercourse or lake protection zone, as defined in 14 CCR 916.4 [936.4,956.4](b), except for maintenance of roads and drainage facilities or structures.

(7) No known sites of rare, threatened or endangered plants or animals will be disturbed, threatened or damaged.

(8) No timber operations within the buffer zone of a sensitive species, as defined in 14 CCR 895.1.

(9) No timber harvesting within the standard width of a watercourse or lake protection zone, as defined in 14 CCR 916.4 [936.4,956.4] (b), except sanitation-salvage harvesting, as defined in 14 CCR 913.3 [933.3,953.3], where immediately after completion of operations, the area shall meet the stocking standards of 14 CCR 912.7 [932.7,952.7](b)(2), or, except the removal of dead or dying trees where consistent with 14 CCR 916.4 [936.4,956.4] (b). Trees to be harvested shall be marked by, or under the supervision of, an RPF prior to timber operations.

(10) No timber operations on any site that satisfies the criteria listed in 895.1 for a significant archaeological or historical site. Information on some of these sites may be available from the Information Centers of the California Historical Resources Information System within the Department of Parks and Recreation.

(c) The cutting or removal of trees in compliance with sections 4290 and 4291 which eliminates the vertical continuity of vegetative fuels and the horizontal continuity of tree crowns for the purpose of reducing flammable

1 materials and maintaining a fuelbreak to reduce fire spread, duration, and  
intensity.

2 (1) Only trees within one-hundred-fifty feet from any point of an  
3 "approved and legally permitted structure" that complies with the California  
Building Code may be harvested.

4 (2) The following silvicultural methods may not be used: clearcutting,  
seed tree removal step, shelterwood removal step.

5 (3) All surface fuels created by timber operations under the exemption  
which could promote the spread of wildfire, including logging slash and  
6 debris, deadwood, branches exceeding 1 inch in diameter, and brush, shall be  
chipped, burned, or removed within 45 days from the start of timber  
operations.

7 (4) In addition to the slash treatment described in CCR 1038(c)(3), the  
areas of timber operations must meet the vegetation treatment standards in  
8 PRC 4584(j)(1) to (2)(A) illustrated in Technical Rule Addendum No.4 within  
one year from the receipt of issuance of Notice of Acceptance.

9 (5) In addition to the limitations listed in 1038(b)(1)-(10), the  
following apply:

10 (A) The timber operator shall provide the Director the tentative  
commencement date of timber operations on the notice required in 14 CCR  
11 1038.2. Within a 15 day period before beginning timber operations, the timber  
operator shall notify CDF of the actual commencement date for the start of  
12 operations. The starting date shall be directed to the designated personnel  
at the appropriate CDF Ranger Unit Headquarters by telephone or by mail.

13 (B) Timber operations conducted under this subsection shall conform to  
applicable city or county general plans, city or county implementing  
14 ordinances, and city or county zoning ordinances within which the exemption  
is located. The timber operator or timberland owner shall certify that the  
15 city or county has been contacted and the exemption conforms with all city or  
county regulatory requirements.

16 (C) Timber operations may not be conducted without a copy of the  
Director's notice of acceptance of the exemption at the operating site,  
17 except where the Director has failed to act within the 5 working-day review  
period.

18 (d) The limit of 10 percent of the volume per acre in subsection (b)  
above does not apply when harvesting dead trees which are unmerchantable as  
19 sawlog-size timber from substantially damaged timberlands, as defined in 14  
CCR 895.1, and the following conditions are met:

20 (1) Timber operations shall comply with the limits established in 14  
CCR 1038(b)(1)-(10).

21 (2) The landowner shall notify the Director of the completion of timber  
operations within 30 days of their cessation.

22 (3) At least one inspection conducted by the Director shall be made  
after completion of operations (Section 4604 PRC).

23 (4) The RPF certifies that the timberland is substantially damaged.

24 (5) The RPF shall also certify that no conditions were identified where  
operations, conducted in compliance with the rules of the Board, would  
reasonably result in significant adverse effects.

25 (e) Operations pursuant to an exemption under subsection (c) and (d)  
may not commence for five working days from the date of the Director's  
receipt of the exemption unless this delay is waived by the Director, after

1 consultation with other state agencies. The Director shall determine whether  
2 the exemption is complete, and if so, shall send a copy of a notice of  
3 acceptance to the submitter. If the exemption is not complete and accurate,  
4 it shall be returned to the submitter and the timber operator may not  
5 proceed. If the Director does not act within five days of receipt of the  
6 exemption, timber operations may commence.

7 (f) On parcels of 20 acres or less in size within the Lake Tahoe Basin,  
8 that are not part of a larger parcel of land in the same ownership, the  
9 removal of dead or dying, (regardless of the definition of "dying trees" in  
10 section 895.1, dying means: will be dead within 1 year, based on the  
11 judgement of an RPF) trees as marked by an RPF and for which a Tahoe Basin  
12 Tree Removal Permit has been issued, when the following conditions are met:

13 (1) Tree removal on high erosion hazard lands (Bailey's Land Capability  
14 Districts 1a, 1c, or 2 per Land Capability Classification of the Lake Tahoe  
15 Basin, California-Nevada: A Guide for Planning by R.G. Bailey, USDA Forest  
16 Service, 1974) shall only be conducted using the following methods:  
17 helicopter, over-snow where no soil disturbance occurs, hand carry, and use  
18 of existing roads.

19 (2) Tree removal in Stream Environment Zones ("SEZs," Bailey's Land  
20 Capability District 1b) shall be permitted as in the preceding section  
21 (f)(1). End-lining may also be used provided that soils are dry, all heavy  
22 equipment remains outside the SEZ, and site conditions are such that soils or  
23 vegetation will not be adversely affected and a discharge of earthen  
24 materials to surface waters, SEZs, or 100-year floodplains will not occur.

25 (3) No tractor or heavy equipment (ground-based) operations on slopes  
greater than 30% except over-snow operations that result in no soil  
disturbance.

(4) No heavy equipment operations within the standard width of a  
watercourse or lake protection zone (WLPZ), as defined in 14 CCR 956.4(b),  
except for use or maintenance of existing roads, maintenance of drainage  
facilities or structures, or use of skid crossings approved pursuant to  
(f)(9) below.

(5) No new road construction or reconstruction, as defined in 14 CCR  
895.1.

(6) No tractor or heavy equipment operations on known slides or  
unstable areas.

(7) No timber harvesting within the standard width of a watercourse or  
lake protection zone, as defined in 14 CCR 956.4 (b), except sanitation-  
salvage harvesting, as defined in 14 CCR 953.3, where immediately after  
completion of operations, the area shall meet the stocking standards of 14  
CCR 952.7(b)(2), or, except the removal of dead or dying trees where  
consistent with 14 CCR 956.4 (b). Trees to be harvested shall be marked by,  
or under the supervision of, an RPF prior to timber operations.

(8) All Class III watercourses shall have at least 25-foot WLPZ.

(9) No watercourse crossings of Class I or Class II watercourses except  
on existing bridges or existing culvert crossings. Any and all crossings  
proposed for Class III or Class IV watercourses shall be approved by staff of  
the Regional Water Quality Control Board (RWQCB) prior to operations.

1 (10) No known sites of rare, threatened or endangered plants or animals  
will be disturbed, threatened or damaged.

2 (11) No timber operations within the buffer zone of a sensitive  
species, as defined in 14 CCR 895.1.

3 (12) No timber operations on historical or archaeological sites.  
Information on some of these sites may be available from the Information  
4 Centers of the California Historical Resources Information System within the  
Department of Parks and Recreation.

5 (13) The landowner shall allow access to the property for inspections  
by staff of the RWQCB.

6 (14) A person shall comply with all operational provisions of the  
Forest Practice Act and District Forest Rules applicable to "Timber Harvest  
7 Plan", "THP", and "plan".

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9 (15) Subsection (f) shall expires ~~January 1, 2001~~ December 31, 2002.

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11 Note: Authority cited: Sections 4551, 4553 and 4584 Public Resources Code.  
Reference: Sections 4527 and 4584, Public Resources Code. EPIC v California  
12 Department of Forestry and Fire Protection and Board of Forestry (1996) 43  
Cal. App.4th 1011.

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File: Proposed Rule Language  
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